

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

DAQUIRI MOSS

Plaintiff

V.

JEFF NEAL, ET AL.

Defendants

Case No. 5:22-cv-00018-RWS-JBB

ORDER OF DISMISSAL

Plaintiff Daquiri Moss, proceeding *pro se*, filed the above-captioned case alleging violations of his constitutional rights. Docket No. 1. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636.

Plaintiff was ordered to pay an initial partial filing fee of \$5.00, in accordance with 28 U.S.C. § 1915(b). Docket No. 4. By separate order, Plaintiff was directed to file an amended complaint setting forth a short and plain statement of his claim. Docket No. 5. Plaintiff received a copy of both orders on March 31, 2022. Docket No. 6.

When Plaintiff did not comply with these orders, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. Docket No. 7. Plaintiff received a copy of this Report on August 12, 2022. Docket No. 8. Plaintiff filed no objections and is therefore barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203- RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021).

The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge.

Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") Accordingly, it is

ORDERED that the Report of the Magistrate Judge (Docket No. 7) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-captioned case is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. A final judgment will be entered in this case in accordance with this Order. It is further

ORDERED that the statute of limitations is **SUSPENDED** for a period of 60 days following the date of entry of final judgment. Such suspension shall not affect any claims upon which limitations had already expired at the time the lawsuit was filed.

So ORDERED and SIGNED this 2nd day of May, 2023.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE